

AMENDED IN SENATE APRIL 24, 2000

SENATE BILL

No. 1999

Introduced by Senators Karnette and Burton

February 25, 2000

~~An act to amend Section 7371 of, to amend and renumber the heading of Article 1 (commencing with Section 7370) and Article 2 (commencing with Section 7375) of Chapter 5 of Part 3 of Division 5 of, and to add Article 1 (commencing with Section 7360) to Chapter 5 of Part 3 of Division 5 of, the Labor Code, relating to crane operators, and making an appropriation therefor. An act to add Section 144.8 to the Labor Code, relating to crane operators.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1999, as amended, Karnette. ~~Certification of crane~~ *Crane operators: occupational safety orders.*

Existing law establishes the Occupational Safety and Health Standards Board in the Department of Industrial Relations, and authorizes the board to adopt, amend, or repeal occupational safety and health standards and orders.

This bill would provide that if the board adopts or amends a general industry safety order governing the qualifications of construction crane operators, the order shall not be construed to affect the liability of any construction crane operator.

~~Existing law provides for the certification of all cranes and derricks used in lifting service, exceeding 3 tons rated capacity, and for the licensure by the Division of Occupational Safety and Health of the Department of Industrial Relations of crane or derrick certifiers. Existing law also prohibits a~~

~~tower crane, as defined, from being operated at any worksite unless an employer obtains a permit from the division.~~

~~This bill would add provisions requiring the certification of crane operators by the department. This bill would also establish the Crane Operators Certification Fund, into which fees collected for the examination and certification of crane operators would be paid. The fund would be continuously appropriated to the department for the administration of the crane operators certification program. By establishing this continuously appropriated fund and by providing for a source of income that would flow into that fund, this bill would make an appropriation.~~

~~This bill would also make it a crime to operate a crane, unless exempted, without a certificate of operation issued under the bill's provisions. By creating a new crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: yes no. Fiscal committee: yes no. State-mandated local program: yes no.~~

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Article 1 (commencing with Section~~
- 2 ~~SECTION 1. Section 144.8 is added to the Labor~~
- 3 ~~Code, to read:~~
- 4 ~~144.8. Notwithstanding any other provision of law, if~~
- 5 ~~the board adopts or amends a general industry safety~~
- 6 ~~order governing the qualifications of those who operate~~
- 7 ~~construction cranes, the order shall not be construed in~~
- 8 ~~any manner to affect the liability of any construction~~
- 9 ~~crane operator.~~
- 10 ~~7360) is added to Chapter 5 of Part 3 of Division 5 of the~~
- 11 ~~Labor Code, to read:~~
- 12

Article 1. ~~Certification of Crane Operators~~

~~7360. As used in this article:~~

~~(a) “Crane” means a machine for hoisting or lowering heavy weights or transporting heavy weights limited distances, used in the construction, alteration, excavation, maintenance, repair, or demolition of a building, structure, road, or other work. The department shall designate the specific types of cranes, the operation of which are subject to the certification requirements of this article.~~

~~(b) “Department” means the Department of Industrial Relations.~~

~~7360.1. The department shall have all of the following general duties in connection with the implementation of this article:~~

~~(a) It shall establish by rule minimum standards for the competency and training of crane operators through a system of testing and certification consistent with Section 7360.5.~~

~~(b) It shall establish by rule an advisory committee and advisory panels, which shall include contractor representation from apprenticeship programs administered by joint apprenticeship committees under Chapter 4 (commencing with Section 3070) of Division 3, as necessary to carry out the duties of the department under this article.~~

~~(c) It shall establish by rule certification fees and other appropriate fees and adopt any other rules necessary to implement this article.~~

~~7360.2. Unless exempted from the requirements of this article, no person shall engage in or carry on the occupation of crane operator without first procuring a certificate of operation from the department under this article.~~

~~7360.3. It is a misdemeanor for any person to operate a crane within the state without having a valid certificate of operation, unless the person is exempt from this article. Any violation of this section shall be punishable by imprisonment in a county jail not exceeding six months~~

1 or by a fine not exceeding one thousand dollars (\$1,000);
2 or by both that fine and imprisonment.

3 7360.4. When it appears that a person is engaging in,
4 or is carrying on, the occupation of crane operator in
5 violation of this article, the director of the department, his
6 or her authorized representative, or any member of the
7 public may apply to the superior court for an injunction
8 restraining the person from acting in the capacity of a
9 crane operator without a certificate of operation in
10 violation of this article.

11 7360.5. (a) The department shall investigate, classify,
12 and qualify applicants for a certificate to operate a crane
13 by written and practical examinations. The examinations
14 shall require an applicant to show a degree of knowledge,
15 skill, and experience in the classification applied for, and
16 specific knowledge of crane safety practices and
17 requirements, including, but not limited to, knowledge of
18 occupational safety standards, as necessary for the safety
19 and protection of the public.

20 (b) Notwithstanding subdivision (a), the department
21 shall issue a certificate of operation to operate a particular
22 class of crane, without examination, if any of the following
23 conditions are met:

24 (1) The applicant has three or more years' experience
25 in the state prior to January 1, 2001, in operating a crane
26 of the type or classification for which a certificate of
27 operation is being sought.

28 (2) The applicant has successfully completed an
29 apprenticeship program as a crane operator pursuant to
30 Chapter 4 (commencing with Section 3070) of Division
31 3.

32 (3) The applicant has been issued a certificate of
33 competency in the operation of a crane by a certified joint
34 apprenticeship committee, as defined in Section 3076.

35 (c) Statements made by, or on behalf of, an applicant
36 regarding the applicant's experience in the operation of
37 the crane classification applied for shall be verified by a
38 qualified and responsible person.

1 ~~7360.6. (a) All certificates of operation issued~~
2 ~~pursuant to this article shall expire three years from the~~
3 ~~date of issue.~~

4 ~~(b) A person may renew a certificate of operation that~~
5 ~~has not expired for an additional three-year period, and~~
6 ~~for three-year periods thereafter, by applying for renewal~~
7 ~~on a form prescribed by the department and paying the~~
8 ~~required renewal fee not less than 60 days prior to the~~
9 ~~expiration date of the certificate.~~

10 ~~(c) A certificate of operation may be reactivated at~~
11 ~~any time within three years after its expiration upon the~~
12 ~~filing of an application for reactivation on a form~~
13 ~~prescribed by the department and the payment of the~~
14 ~~required reactivation fee and delinquency fee. If a~~
15 ~~certificate of operation is not reactivated within three~~
16 ~~years after it has expired, the person shall be required to~~
17 ~~apply for an original certificate of operation.~~

18 ~~7360.7. The department may collect fees as fixed by~~
19 ~~the department for the examination and certification of~~
20 ~~crane operators, including appropriate certificate~~
21 ~~renewal fees, reactivation fees, and delinquency fees, as~~
22 ~~necessary to cover the actual costs, including~~
23 ~~administrative costs, of the crane operators certification~~
24 ~~program. All fees collected by the department under this~~
25 ~~article shall be paid into the Crane Operators~~
26 ~~Certification Fund, which is hereby created and,~~
27 ~~notwithstanding Section 13340 of the Government Code,~~
28 ~~is continuously appropriated to the department for the~~
29 ~~administration of the crane operators certification~~
30 ~~program.~~

31 ~~7360.8. The department may, upon its own motion,~~
32 ~~and shall, upon the verified written complaint of any~~
33 ~~person, investigate the actions of any applicant or~~
34 ~~certificate holder within the state and may deny a~~
35 ~~certificate of operation or the renewal of a certificate of~~
36 ~~operation, or temporarily suspend or permanently~~
37 ~~revoke any certificate of operation, if the applicant or~~
38 ~~certificate holder is guilty of, or commits, any one or more~~
39 ~~of the acts or omissions constituting causes for disciplinary~~
40 ~~action specified in Section 7360.11.~~

~~7360.09. All accusations against certificate holders shall be filed with the department within one year after the act or omission alleged as grounds for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted in that chapter.~~

~~7360.10. When any certificate of operation has been revoked following a hearing under this article, any other certificate of operation issued pursuant to this article in the name of the certificate holder may be revoked by the department without further notice.~~

~~7360.11. The following acts or omissions constitute a cause for disciplinary action under this article:~~

~~(a) Gross negligence or gross incompetency in the operation of a crane.~~

~~(b) Willful or deliberate disregard of any occupational safety standard while operating a crane.~~

~~(c) Misrepresentation of a material fact in applying for, or obtaining, a certificate of operation under this article.~~

~~(d) Failure to carry or produce for inspection a valid certificate of operation.~~

~~7360.13. No certificate of operation shall be required by this article for a crane operator to exclusively operate a crane owned or leased by the operator's employer on a permanent site owned by the employer or for any person to operate a crane as an employee of a public agency or of an electric, gas, or telephone corporation as defined in Sections 218, 222, and 234, respectively, of the Public Utilities Code.~~

~~SEC. 2. The heading of Article 1 (commencing with Section 7370) of Chapter 5 of Part 3 of Division 5 of the Labor Code is amended and renumbered to read:~~

~~Article 2. — Permits for Tower Cranes~~

~~SEC. 3. Section 7371 of the Labor Code is amended to read:~~

1 ~~7371. As used in this article and in Article 3~~
2 ~~(commencing with Section 7375), the following~~
3 ~~definitions shall apply:~~

4 (a) ~~“Crane” means a machine for lifting or lowering a~~
5 ~~load and moving it horizontally, in which the hoisting~~
6 ~~mechanism is an integral part of the machine. It may be~~
7 ~~driven manually or by power and may be a fixed or a~~
8 ~~mobile machine, but does not include stackers, lift trucks,~~
9 ~~power shovels, backhoes, excavators, concrete pumping~~
10 ~~equipment, or straddle type mobile boat hoists.~~

11 (b) ~~“Straddle type mobile boat hoist” means a straddle~~
12 ~~type carrier supported by four wheels with pneumatic~~
13 ~~tires capable of straddling and carrying boats with high~~
14 ~~masts and superstructure.~~

15 (c) ~~“Tower crane” means a crane in which a boom,~~
16 ~~swinging jib, or other structural member is mounted on~~
17 ~~a vertical mast or tower.~~

18 (d) ~~“Mobile tower crane” means a tower crane which~~
19 ~~is mounted on a crawler, truck, or similar carrier for travel~~
20 ~~or transit.~~

21 (e) ~~“Crane employer” means an employer who is~~
22 ~~responsible for the maintenance and operation of a tower~~
23 ~~crane.~~

24 (f) ~~“Certificating agency” shall have the same~~
25 ~~definition as in Section 4885 of Title 8 of the California~~
26 ~~Code of Regulations.~~

27 SEC. 4. ~~The heading of Article 2 (commencing with~~
28 ~~Section 7375) of Chapter 5 of Part 3 of Division 5 of the~~
29 ~~Labor Code is amended and renumbered to read:~~

30
31 Article 3. ~~Licensure of Certifiers~~
32

33 SEC. 5. ~~No reimbursement is required by this act~~
34 ~~pursuant to Section 6 of Article XIII B of the California~~
35 ~~Constitution because the only costs that may be incurred~~
36 ~~by a local agency or school district will be incurred~~
37 ~~because this act creates a new crime or infraction,~~
38 ~~eliminates a crime or infraction, or changes the penalty~~
39 ~~for a crime or infraction, within the meaning of Section~~
40 ~~17556 of the Government Code, or changes the definition~~

- 1 ~~of a crime within the meaning of Section 6 of Article~~
- 2 ~~XIII B of the California Constitution.~~

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